

REMARKS

This Amendment and Request for Reconsideration is submitted in response to an outstanding Office Action mailed on March 21, 2008, the shortened statutory period for response having expired on July 21, 2008. Accordingly, a petition for an extension of time and associated fee are included herewith. In the event that the Commissioner determines an additional extension of time, or associated fee is due, the undersigned hereby petitions for such extension of time and authorizes the Commissioner to charge any required fee to the Milbank deposit account 13-3250.

Applicant filed a Notice of Appeal on May 8, 2008, which is expressly withdrawn by this Amendment and Request for Reconsideration.

I. Status of the claims

Please amend claims 1, 28 and 29 as indicated above. Claims 1-29 are now pending in the application. Claims 1, 28 and 29 are independent claims.

II. Rejections under 35 U.S.C. § 102

The Examiner has rejected claims 1-5, 7, 8 and 11-29 under 35 U.S.C. § 102 as being anticipated by U.S. Published Patent Application No. US 2002/0147670 A1 to *Lange*.

Applicant thanks the Examiner for the time and courtesy during the telephone interview on August 20, 2008 discussing a proposed amendment to address the current § 102 rejection over *Lange*. As discussed, Applicant respectfully submits that *Lange* does not anticipate in view of the amendment to claims 1, 28 and 29.

Claim 1 recites identifying a plurality of at least three holders of investment instruments that desire sharing a risk of loss, wherein the investment

instruments of an individual holder are the same, while at the same time the investment instruments of each holder are diverse with respect to the investment instruments of other holders, forming a diversified set of investment instruments reflecting different and diverse industry sectors or industry subsectors, further wherein performance of the investment instruments of an individual holder is closely correlated because the investment instruments are the same and investment performance across holders is not closely correlated because the investment instruments of different holders reflect different and diverse industry sectors or industry subsectors. Applicant respectfully submits that *Lange* describes what is in effect a binary system. There is one outcome, such as a security above a certain price, and the other outcome, which is the security below that certain price. Although there may be multiple investors in *Lange* they are only associated with one of the two outcomes.

In contrast to the binary outcomes of *Lange*, in claim 1, there are at least three different outcomes because there are at least three different holders, and the instruments of a holder are the same, while at the same time different from the instruments of the other holders. The following table illustrates by example:

Holder	Instruments
A	AT&T
B	Intel
C	JP Morgan Chase & Co.

The specification describes this at pages 10-11, where the individual Dow securities are listed, as follows:

Security	Nov. 1, 2001 closing	Mar. 30, 2001 closing
Alcoa Inc.	\$29.0625	\$35.9500
American Express Company	\$58.3750	\$41.3000
AT&T Corp.	\$22.0000	\$21.3000
Boeing Co.	\$65.7500	\$55.7100
Caterpillar Inc.	\$34.7500	\$44.3800
Citigroup Inc.	\$51.6870	\$44.9800
Coca-Cola Co.	\$60.8750	\$45.1600
Disney (Walt) Co.	\$36.6250	\$28.6000
DuPont (E.I.) de Nemours & Co.	\$43.9375	\$40.7000
Eastman Kodak Co.	\$60.8750	\$45.1600
Exxon Mobil Corp.	\$92.0625	\$81.0000
General Electric Company	\$54.4375	\$41.8600
General Motors Corp.	\$61.3750	\$51.8500
Hewlett-Packard Co.	\$44.4375	\$31.2700
Home Depot Inc.	\$44.0625	\$43.1000
Honeywell International Inc.	\$53.5000	\$40.8000
Intel Corp.	\$44.8750	\$26.3125
International Business Machines Corp.	\$98.5625	\$96.1800
International Paper Co.	\$36.0625	\$36.0800
Johnson & Johnson	\$91.0000	\$87.4700
McDonald's Corp.	\$31.6250	\$26.5500
Merck & Co., Inc.	\$89.7500	\$75.9000
Microsoft Corp.	\$69.6250	\$54.6875
Minnesota Mining & Manufacturing Company	\$95.1250	\$103.900
JP Morgan Chase & Co.	\$45.6875	\$44.9000
Philip Morris Companies Inc.	\$36.5620	\$47.4500
Procter & Gamble Co.	\$69.0000	\$62.6000
SBC Communications Inc.	\$56.0625	\$44.6300
United Technologies Corp.	\$68.6250	\$73.3000
Wal-Mart Stores Inc.	\$46.6875	\$50.5000

In addition, at least three different holders, where the instruments of a holder are the same, while at the same time different from the instruments of the other holders, is disclosed in the specification at page 15, lines 6-10 (describing loss compensation for clients who purchased JP Morgan Chase as compared to clients who purchased other securities). The specification also describes how a client purchases Intel shares (page 19, line 14 - page 21, line 10) to participate in the system.

The specification also describes different participants in the table on page 5, all investing \$5 million, where participants A - J are listed with different gains and

losses, as follows:

Participant A	Loss \$1,000,000	(20 percent of investment)
Participant B	Loss \$1,500,000	(30 percent of investment)
Participant C	Gain: amount irrelevant	
Participant D	Loss \$500,000	(10 percent of investment)
Participant E	Gain: amount irrelevant	
Participant F	Loss \$1,000,000	(20 percent of investment)
Participant G	Loss \$2,000,000	(40 percent of investment)
Participant H	Loss \$250,000	(5 percent of investment)
Participant I	Loss \$100,000	(2 percent of investment)
Participant J	Loss \$3,650,000	(73 percent of investment)

The losses are different for different participants, except the common \$1,000,000 loss of participants A and F. Those differences in loss clearly indicate that the instruments of each participant must be different from each other. If instruments of the participants were the same, then the gain or loss of the participants would be the same as well.

The specification also describes the reason for the diversification, as avoiding overexposure to any one security (page 10, line 2).

IV. Request for Reconsideration

The Applicant respectfully submits that the claims of this application are in condition for allowance. Accordingly, reconsideration of the rejection and allowance is requested. If a conference would assist in placing this application in better condition for allowance, the undersigned would appreciate a telephone call at the number indicated.

Respectfully submitted,
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